REMARKS

Applicants would like to thank the Examiner for his assistance in a teleconference on October 26, 2004. During the teleconference, the Martin patent (U.S. Pat. No.6,397,189) was discussed.

The present Amendment is in response to the Examiner's Office Action mailed August 5, 2004. The August 5, 2004, Office Action erroneously indicates that claims 1-25, 29, 30, and 32-67 were pending. Applicants note that at the time of the Office Action, claims 1-23, 25, 29-30, and 32-86 were pending. By this Amendment, claims 1, 3, 5, 8-9, 11, 13, 16, 29, 33, 35-42, 44-48, 51-53, 55, and 57-72 are amended, claims 43, 49-50, 56, and 73-86 are canceled, and new claims 87-95 are added. No new matter has been added. Accordingly, claims 1-23, 25, 29-30, 32-48, 51-55, 57-72, and 87-95 are now pending in the application.

Cancellation or amendment of the claims is done without prejudice to reintroducing any material removed as a result of these actions. These actions are not to be considered a waiver or abandonment of any technology otherwise fully described in the application as filed.

Reconsideration and allowance are respectfully requested.

Rejection Under 35 USC § 103

Claims 1-25, 29, 30, and 32-67 have been rejected in view of Martin et al., U.S. Pat. No. 6,397,189. The Examiner states, in part:

> Applicant's May 10, 2004 REMARKS have been reviewed, but are not convincing. It is noted that Applicant's claim language focused on is intended use. As is, is "may" not occur. The lists recited in the claim language do not correlate with the REMARKS presented.

As discussed in the telephonic interview with the Examiner, the use of the word "may" in claim relates to the functionality provided by the user interface and the entertainment unit and positively recites limitations of the claim. The "may" language is not merely a non-limiting "intended use". As indicated in MPEP § 2173.05(g), functional language is proper in claims and must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used.

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Claim 1 recites, in part:

> wherein a user, through the user input device and the user interface, may view the master list and the local list of entertainment content items, and request an item from the master list or the local list, wherein if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request. (Emphasis added.)

Martin describes, in part:

> During the attract mode the processing circuit 121 may also control the display 125 to present a prompt requesting customers to enter new song requests. The new song request data entered by a customer using the keyboard is stored and uploaded to the management system 11 to aid the system 11 in determining whether new song data should be downloaded to the jukebox. (Col. 6, lines 56-63; emphasis added.)

Martin fails to teach or suggest a distributed entertainment system in which if the requested item is not on the local list, the requested item is transferred to at least one of the at least one entertainment units and performed locally in response to the user request. Martin merely states that during the attract mode, new customers may be prompted to enter new song requests which are "stored and uploaded" to the management system to "aid the system 11 in determining whether new song data should be downloaded to the jukebox". Martin fails to teach or suggest that the new song data is transferred and performed locally in response to the user request.

For at least these reasons, Martin fails to establish a *prima facie* case of obviousness of claim 1 and its dependent claims 2-10, 39-41, 44-48, 53, and newly added dependent claim 87. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 1-10, 39-41, 44-48, 53, and 87.

Claim 11 recites, in part:

> content management logic to control the entertainment unit such that in response to receiving a request via the user input device for performance of an item from the list of entertainment content items not stored in the local memory device, retrieving the requested item via a WAN and performing the requested item locally in response to the request. (Emphasis added.)

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For at least the reasons given above with respect to claim 1, Martin fails to establish a *prima facie* case of obviousness of claim 11 and its dependent claims 12-15, 54-55, and 57-60. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 11-15, 54-55, and 57-60.

Claim 16 recites, in part:

> at an entertainment unit in a venue, . . . receiving a request for an item of entertainment content from a user, . . . where the selection requests entertainment content not stored on the entertainment unit;
>
> transmitting the request via the WAN to a central management resource remote from the venue;
>
> supplying the requested entertainment content item to the entertainment unit from a memory device on the central management resource, wherein the entertainment content item comprises music or an electronic game;
>
> receiving the requested entertainment content item at the entertainment unit in the venue; and
>
> presenting the entertainment content item to the user upon successful delivery to the entertainment unit.

For at least the reasons given above with respect to claim 1, Martin fails to establish a *prima facie* case of obviousness of claim 16 and its dependent claims 17-23, 61, and newly added dependent claim 88. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 16-23, 61, and 88.

Claim 29 recites, in part:

> if the selected entertainment content is not stored in the local storage unit, the selected entertainment content is requested from the central resource over the network, transferred to the electronic entertainment device, and performed in response to the user request on the electronic entertainment device after being received. (Emphasis added.)

For at least the reasons given above with respect to claim 1, Martin fails to establish a *prima facie* case of obviousness of claim 29 and its dependent claims 30, 32-34, and 62-67. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 29-30, 32-34, and 62-67.

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Claim 35 recites, in part:

> content management logic configured to control the entertainment unit such that in response to a request via the1
> user input device to perform an entertainment content item not stored in the local memory device:
> the entertainment unit requests the requested entertainment content item from the central resource;
> the entertainment unit receives the requested entertainment content item from the central resource; and
> the entertainment unit performs the requested entertainment content item.

For at least the reasons given above with respect to claim 1, Martin fails to establish a *prima facie* case of obviousness of claim 35 and its dependent claims 36-38, 42, 51-52, 68-72, and newly added dependent claim 89. Applicants respectfully request withdrawal of the Examiner's rejection and allowance of claims 35-38, 42, 51-52, 68-72, and 89.

New claims 90-95 have been added. Applicants submit that claims 90-95 are allowable and respectfully request allowance therefor.

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CONCLUSION

With respect to all amendments and cancelled claims, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections made by the Patent Office. Applicants reserve the right to pursue prosecution of any presently excluded claim embodiment in future continuation and/or divisional applications.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. Should the Examiner have any questions, the Examiner is invited to call the undersigned Attorney for Applicants at (408) 392-9250.

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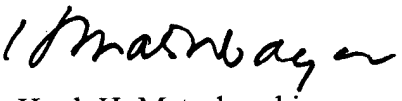
Respectfully submitted,



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